

THE CITY OF NEW YORK  
**LAW DEPARTMENT**  
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December 17, 2010

**By ECF**

The Honorable Sandra L. Townes  
United States District Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: Thomas, et al. v. NYC Dep't of Education, et al.  
Docket No. 09 Civ. 5167 (SLT)(RLM)

Dear Judge Townes:

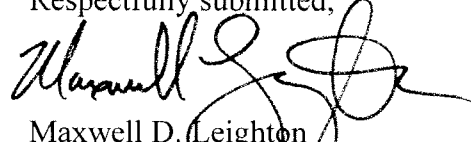
I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for the defendants in the above-referenced matter. I write in response to the letter, dated December 16, 2010, from Joy Hochstadt, attorney for four of the six named plaintiffs.

Ms. Hochstadt characterizes her December 16th letter as a continuation of her December 13th submission and as a motion for a more definite statement as to the Department of Education's compliance with its April 15, 2010 agreement with the United Federation of Teachers. Her application should be summarily denied for at least two reasons. First, it violates this Court's pre-motion conference requirement which applies to all Fed. R. Civ. P. 12 motions. See Rule III(A).

Second, Fed. R. Civ. P. 12(e) does not permit a motion for more definite statement unless a responsive pleading is allowed to the challenged pleading. Since no responsive pleading is permitted to a defense or affirmative defense, Ms. Hochstadt has absolutely no basis for making a request to file a motion for a more definite statement.

Defendants, therefore, respectfully submit that whatever relief Ms. Hochstadt purports to seek in her December 13th and 16th submissions should be denied.

Respectfully submitted,



Maxwell D. Leighton  
Assistant Corporation Counsel

cc: Joy Hochstadt (by ECF)  
Attorney for Plaintiffs Holmes, Salazar, Pakter, and Santucci

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